



**US Army Corps
of Engineers.**
Philadelphia District

Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OP-R

Public Notice

Public Notice No.
CENAP-OP-R-200600883-26

Date
AUG 30 2006

Application No. File No.

In Reply Refer to:
REGULATORY BRANCH

This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

The purpose of this notice is to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the work described below.

APPLICANT: White Creek at Bethany Homeowners Association

AGENT: Environmental Resources, Incorporated
1 Plaza East
106 East Main Street
Salisbury, MD 21801-4921

WATERWAY: White Creek

LOCATION: White Creek at Bethany, Tax Parcel No. 69,
Map 1-34-8, located off of Clubhouse Road (CR-351), Baltimore
Hundred, Sussex County, Delaware.

ACTIVITY: As depicted on Enclosures 1-5, the applicant proposes to construct a community dock/pier and too perform minor dredging within an artificially created lagoon and a portion of White Creek.

The proposed work consist of constructing the following:

1. 5' x 25' fixed pier;
2. 4' x 30' aluminum ramp;
3. 5' x 7' floating pier;
4. 5' x 42' floating dock with three 5'x 24' finger piers; and
5. place six free standing mooring piles.

In addition, the applicant proposes to hydraulically dredge an area 50' x 250' (0.23 acre; 500 CY). The proposed dredging depth, -2.0' MLW, will match the depth of White Creek 150' past the project property line/shoreline.

To help improve flushing within the lagoon, the dredged material will be disposed of by shallowing an overly deep portion of the manmade lagoon.

Water quality will be protected by the placement of a cofferdam and weighted silt curtains across the lagoon at the channelward end and landward end of the dredge spoil disposal.

To protect fisheries, dredging will be conducted between October 1 and December 31.

PURPOSE: Provide a community dock with navigation access for small vessels.

A preliminary review of this application indicates that the proposed work would not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

Essential Fish Habitat Assessment: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (public law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions or proposed actions, permitted, funded, or undertaken by the agency that may adversely effect essential fish habitat (EFH). Effects of the Project on Essential Fish Habitat (EFH): The project is located in Essential Fish Habitat identified on Sheet 81 of Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware, March 1999. The following managed species of fish have been listed in the above referenced guide as occurring in the vicinity of the project: bluefish (Pomatomus saltatrix), summer flounder (Paralichthys dentatus), scup (Stenotomus chrysops), black sea bass (Centropristus striata), spiny dogfish (Squalus acanthias), surf clam (Spisula solidissima), Atlantic butterfish (Peprilus triacanthus), king mackerel (Scomberomorus cavalla), Spanish mackerel (Scomberomorus maculatus), Atlantic cod (Gadus morhua), winter flounder (Pleuronectes americanus), summer flounder (Paralichthys dentatus), windowpane flounder (Scophthalmus aquosus), red hake (Urophycis chuss), white hake (Urophycis tenuis), Atlantic sea herring (Clupea harengus), monkfish (Lophius americanus), cobia (Rachycentron canadum), and the following shark species: scalloped hammerhead (Sphyrna lewini), sandbar (Carcharhinus obscurus), sand tiger (Odontaspis taurus), dusky (Carcharhinus plumbeus), Atlantic sharpnose (Rhizoprionodon terraenovae), Atlantic angel (Squatina dumerili).

Analysis of the Effects:

The portion of the proposed dredging and the dock construction would occur within a manmade artificially created lagoon, an unlikely spawning or nursery area for the managed species.

Consequently, concentrations of the sessile life stages (eggs and larvae) of the listed species are not expected to be within the work area. The pelagic adults and juveniles of the listed species are highly mobile and capable of avoiding impacts associated with the work. In addition, to protect fisheries, dredging will be conducted between October 1 and December 31.

Corps of Engineers View: Based on the above analysis, the Corps of Engineers has determined that the proposed project would not have substantial direct, indirect, site-specific, or habitat-wide impacts on EFH, or upon the managed species and their life stages listed in the above referenced EFH guide, either individually, cumulatively, or synergistically. The proposed project would not eliminate, diminish, nor disrupt the functions of EFH.

The decision whether to issue a permit will be based on an evaluation of the activity's probable impact including its cumulative impacts on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and welfare of the people. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the proposed work should be submitted, in writing, within 15 days to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390.

Review of the National Register of Historic Places indicates that no registered properties or properties listed as eligible for inclusion therein are located within the permit area of the work.

In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. The applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program. No permit will be issued until the State has concurred with the applicant's certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

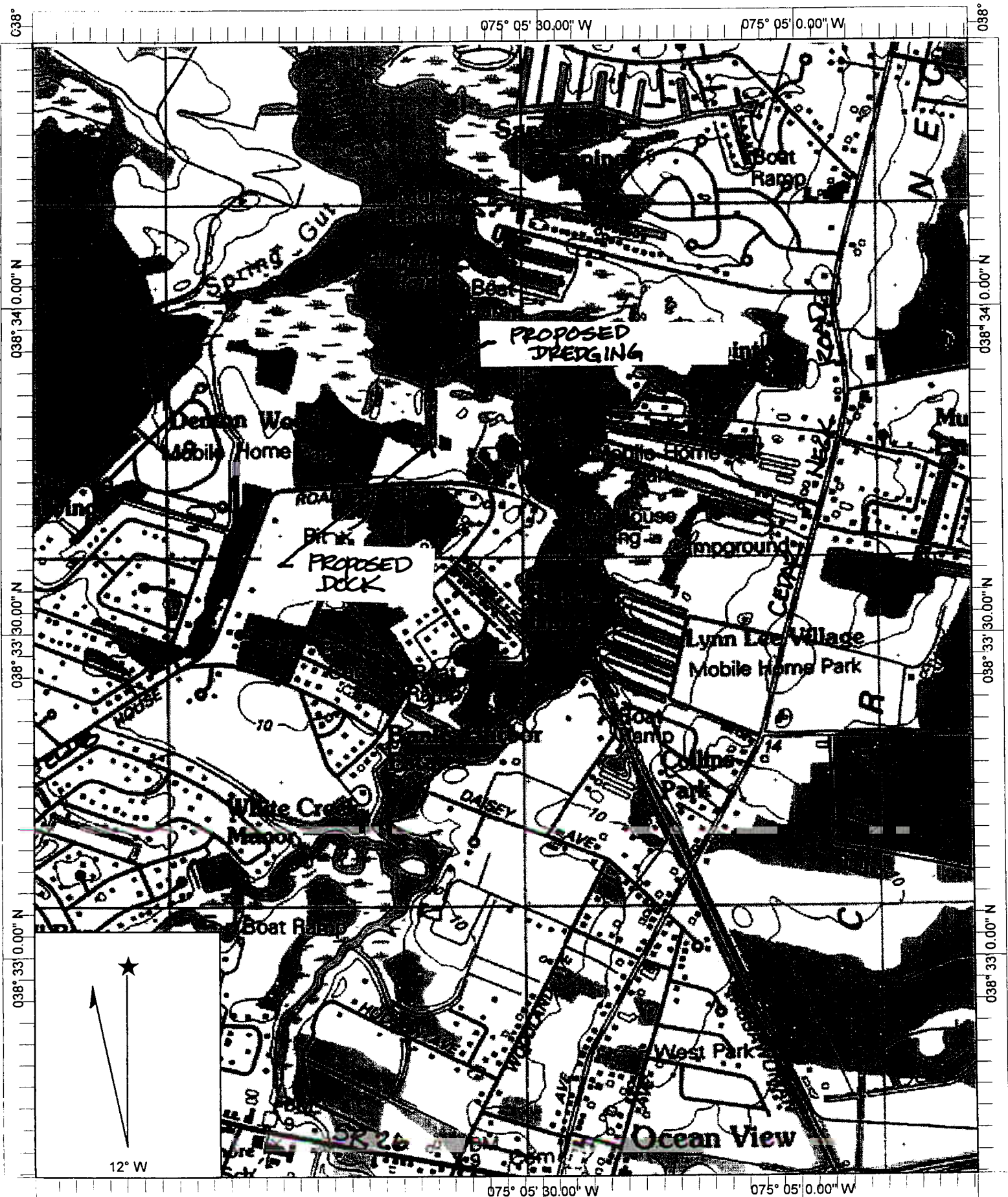
In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary from the State government in which the work is located. Any comments concerning the work described above which relate to Water Quality considerations should be sent to this office with a copy to the State.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by calling Kevin E. Faust at (302) 736-9763 between the hours of 1:00 and 3:30 p.m. or writing this office at the above address.


Frank J. Cianfrani
Chief, Regulatory Branch



Name: BETHANY BEACH
 Date: 6/16/2006
 Scale: 1 inch equals 1142 feet

SHEET 1 OF 3

Location: 038° 33' 32.1" N 075° 05' 34.2" W
LOCATION OF COMMUNITY DOCK & DREDGING
WHITE CREEK AT BETHANY, BALTIMORE HUNDRED
SUSSEX COUNTY, DELAWARE

E-1

SHEET 3



6/16/06
SHEET 2 OF 5

-2.5

WHITE

CREEK



-2x1

-1x8
50'

-1x5

-1x2

-1x0

250' x 50'
AREA OF PROPOSED
DREDGING
-2.0' DEPTH
REMOVE 500 CU. YDS.

PROPERTY LINE

-0x8
-0x5
EXISTING SHOAL

-1x2
-0x3

-5x0

-2

-8x0

UPLANDS

SPOIL DISPOSAL
500 CU YDS

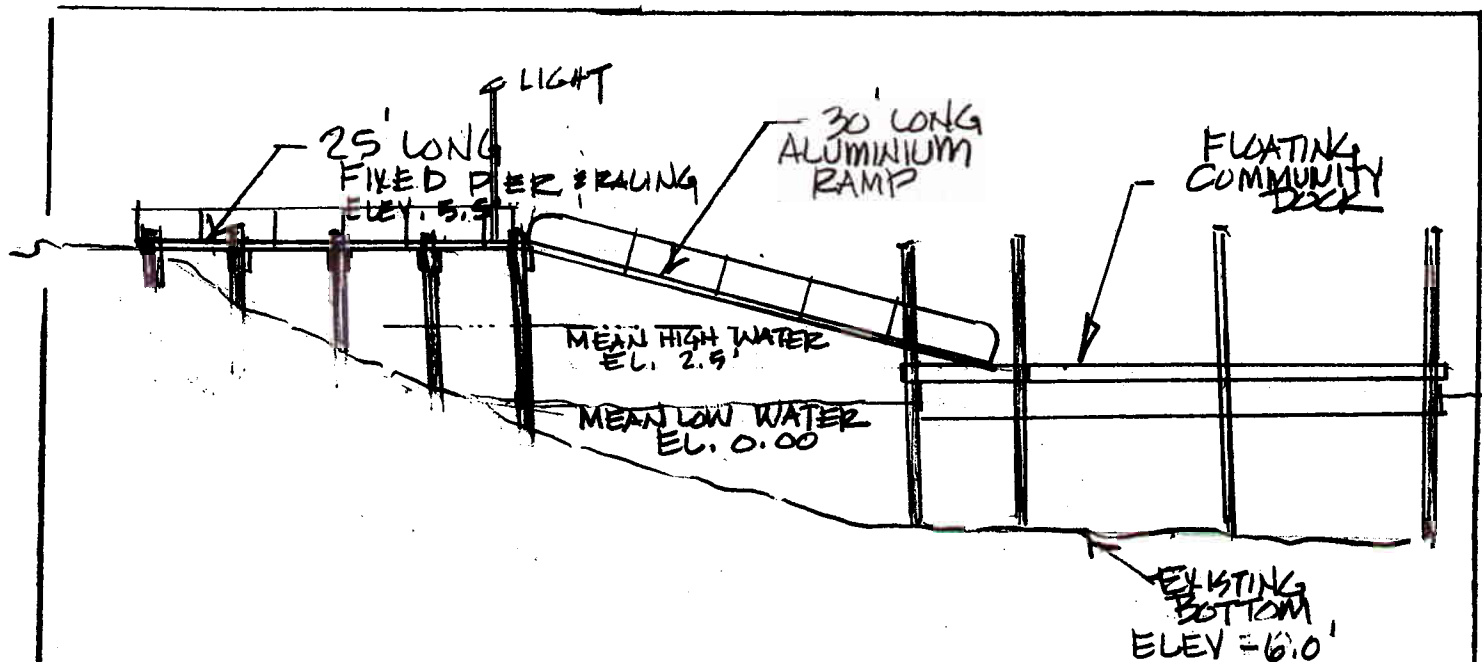
UPLANDS

E-3

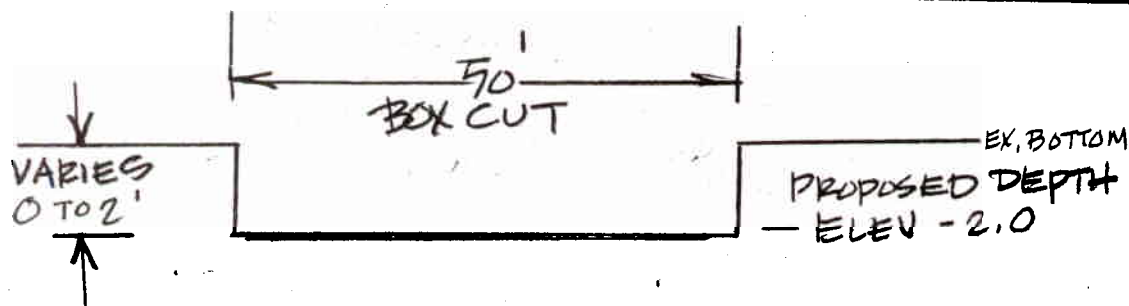
6/6/06

MATCH SHEET 2

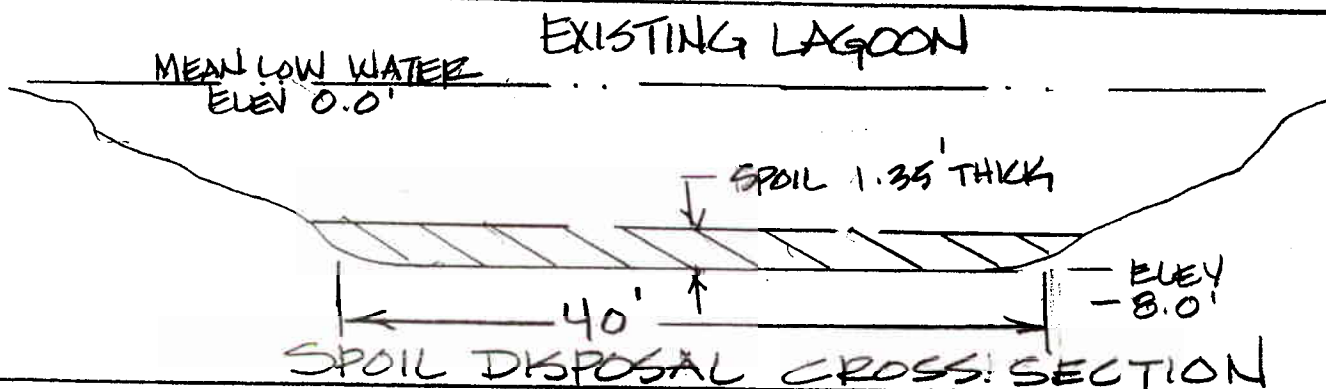
SHEET 3 OF 5



DOCK & PIER CROSS SECTION
N.T.S.



DREDGING CROSS SECTION



CROSS SECTION DETAILS

WHITE CREEK AT BETHANY COMMUNITY DOCK & DREDGING
BALTIMORE HUNDRED SUSSEX CO. DE.

SHEET 5 OF 5

6/16/06

N.T.S.

E-5